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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,953	10/25/2001	Toshikazu Kobayashi	100809-00051 (SCET 19.104	8865

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EXAMINER

PATEL, GAUTAM

ART UNIT

PAPER NUMBER

2655

DATE MAILED: 09/18/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/001,953

Applicant(s)

KOBAYASHI, TOSHIKAZU

Examiner

Gautam R. Patel

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-7 are pending for the examination.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d), which papers have been placed of record in the file.

Specification

3. The disclosure is objected for following reasons.

The title of the invention is neither precise nor descriptive. A new title is required which should include, using twenty words or fewer, claimed features that differentiate the invention from the Prior Art. It is recommended that the title should reflect the gist of or the improvement of the present invention.

Correction is required.

Claim Objections

4. Claim 2-3 and 7 are objected for following reasons.

Claims 2-3 and 7 are objected because it is not clear if these are independent claims or dependent claims with the format that they are written into. Either these claims should be canceled or claim 2 should be written with all the limitation of claim 1 underneath. Similarly claim 7 should be canceled or should be written with all the limitations of claim 6 underneath.

Corrections are required.

Claim Rejections - 35 U.S.C. § 102

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ichimura et al., US. patent 6,097,688 (hereafter Ichimura).

As to claim 1, Ichimura discloses the invention as claimed [see Figs. 1-9, especially 1-4 and 9] including focus drive means, photodetection means, focus-error-signal generation means, recorded-layer movement control means, focus pull-in means and intermediate value, comprising:

focus drive means [fig. 1, unit 6 and 7] for moving the objective lens in a direction orthogonal to the recorded layers of the optical disk [col. 3, line 51 to col. 4, line 12];

photodetection means [fig. 3, unit 74 and 77] for detecting reflected light from said optical disk [col. 6, lines 9-38];

focus-error-signal generation means [fig. 2, unit 33] for generating a focus error signal which corresponds to defocusing of said objective lens relative to any of said recorded layers of said optical disk, on the basis of a detection signal of said photodetection means [col. 5, line 37 to col. 6, line 8];

recorded-layer movement control means [fig. 2, unit 40] for generating a signal which controls said focus drive means, on the basis of the error signal, in order to move said objective lens on the recorded layer which is an objective of said objective lens [col. 5, line 37 to col. 6, line 8]; and.

focus pull-in means [fig. 1-2, units 6 & 7, part of unit 31] for pulling in the focus of said objective lens onto said recorded layer on which said objective lens is to be focused, said pull-in means being permitted to switch ON/OFF by said recorded-layer movement control means [col. 5, line 45 to col. 6, line 8 and col. 9, lines 21-63];

wherein said recorded-layer movement control means calculates an intermediate value from a maximum value and a minimum value of said focus error signal

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corresponding to the certain recorded layer [col. 9, lines 21-63 and col. 10, lines 20-60];
and

in case of moving the focused position of said objective lens to said recorded layer, said focus pull-in means is turned ON when said focus error signal has corresponded to the intermediate value [col. 9, lines 21-63 and col. 10, lines 20-60].

NOTE: Even though Ichimura discloses most of the description with respect movement of these lenses with respect to single surface, it is equally applicable to beam movement from layer to layer [col. 10, line 61 to col. 11, line 4].

6. As to claim 2, Ichimura discloses:

An optical disk playback system [fig. 2] comprising the focus control apparatus [fig. 3] [col. 5, line 37 to col 6, line 62].

7. As to claim 3, Ichimura discloses:

a process in which said recorded-layer movement control means calculates said intermediate value from the maximum value and the minimum value of said focus error signal corresponding to said certain recorded layer is executed in advance of playback of said optical disk [col. 9, line 54 to col. 10, line 60].

NOTE: Calculation are done in advance and stored in memory 94 to be used later.

8. As to claim 4, Ichimura discloses:

means for obtaining an intermediate value [(usually A0'')] [this means is inherently present, since Ichimura is calculating this intermediate value] from a maximum value and a minimum value of a focus error signal which corresponds to defocusing of the objective lens, and which is generated by a certain one of the recorded layers [col. 9, line 54 to col. 10, line 60 and fig. 9A to 9C]; and

means for turning ON a focus servo [fig. 2, unit 40, especially unit 93] which pulls in a focus of said objective lens, with a bias at which the focus error signal corresponds to the intermediate value, in case of the layer jump to the recorded layer [col. 5, line 45 to col. 6, line 8 and col. 10, line 34 to col. 11, line 4].

9. As to claim 5, it is drawn to a method corresponding to the apparatus of claim 4, is rejected for similar reasons set forth in the rejection of claim 4, supra

10. As to claim 6, it is claim corresponding to the apparatus of claim 4, and is rejected for similar reasons set forth in the rejection of claim 4, supra. As to the added limitation of a program:

Ichimura discloses all of the above elements, including obtain an intermediate value and turn on a focus servo which pulls in a focus of said objective lens. Ichimura does not specifically disclose that his all steps are stored in a program as recited in the preamble. However, the preamble is not given the effect of a limitation unless it breathes life and meaning into the claim. In order to limit the claim, the preamble must be "essential to point out the invention defined by the claim." Kropa v. Robie, 88 USPQ 478, 481 (CCPA 1951). Therefore preamble is considered nonlimiting, and is not given patentable weight, as it does not breath life and meaning into the claim [M.P.E.P. 2111.02]

11. As to claim 7, it is claim corresponding to the claim 6, and is rejected for similar reasons set forth in the rejection of claim 6, supra. As to the added limitation of a storage medium Ichimura discloses a storage medium recorded with programs [fig. 4, units 94 and 95]. Also

Ichimura discloses all of the above elements, including obtain an intermediate value and turn on a focus servo which pulls in a focus of said objective lens. Ichimura does not specifically disclose that his all steps are stored in a program as recited in the preamble. However, the preamble is not given the effect of a limitation unless it breathes life and meaning into the claim. In order to limit the claim, the preamble must be "essential to point out the invention defined by the claim." Kropa v. Robie, 88 USPQ 478, 481 (CCPA 1951). Therefore preamble is considered nonlimiting, and is not given patentable weight, as it does not breath life and meaning into the claim [M.P.E.P. 2111.02]

Other prior art cited

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
1. Tsuchiya et al. (US. patent 6,111,832) "Disk discrimination method and device ..".
 2. Holtslag et al. (US. patent 5,841,753) "Multi-layer information storage ..".
 3. Ceshkovsky (US. patent 6,134,199) "Closed loop servo ..".
 - a. Doi (US. patent 4,740,679) "Disc focus servo-circuit ..." >

Contact information

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is (703) 308-7940. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is (703) 872-9314.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To can be reached on (703) 305-4827.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-4700 or the group Customer Service section whose telephone number is (703) 306-0377.



Gautam R. Patel
Patent Examiner
Group Art Unit 2655

September 10, 2003